

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**ORLANDO M,**

Plaintiff,

v.

**ANDREW SAUL**, Commissioner, Social  
Security Administration,

Defendant.

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Civil Action No. **3:18-CV-3326-L**

**ORDER**

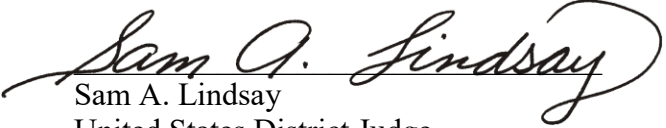
On December 13, 2019, United States Magistrate Judge Rebecca Rutherford entered Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 14), recommending that the court grant Defendant Andrew Saul’s, Commissioner of the Social Security Administration (“Defendant”), Motion to Dismiss (“Motion”) (Doc. 12); and dismiss with prejudice, as it was untimely, pro se Plaintiff Orlando M.’s (“Plaintiff”) action seeking judicial review pursuant to 42 U.S.C. § 405(g) of a final adverse decision by the Commissioner of Social Security. Plaintiff did not file a response to Defendant’s Motion, and no objections to the Report were filed.

Having reviewed the Motion, pleadings, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct and **accepts** them as those of the court. Accordingly, the court **grants** Defendant’s Motion to Dismiss (Doc. 12) and **dismisses with prejudice** this action, as it is time-barred pursuant to 42 U.S.C. § 405(g).

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th

Cir. 1997). Based on the magistrate judge's Report, the court concludes that any appeal of this action would present no legal point of arguable merit and would therefore be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Petitioner may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**It is so ordered** this 31st day of December, 2019.

  
Sam A. Lindsay  
United States District Judge